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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,) No. CR 07-0555 WHA
14 Plaintiff,)
15 v.) **UNITED STATES' SENTENCING
16 HELEN LOWE**
17 HELEN LOWE,) Sentencing Date: May 20, 2008
18 Defendant.)
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22 The government hereby submits this brief Sentencing Memorandum as to defendant
23 HELEN LOWE.

24 Having entered into a plea agreement in No. CR 07-0555 WHA, pursuant to Federal Rule
25 of Criminal Procedure 11(c)(1)(A) and (B), defendant Helen Lowe stands convicted of one count
26 of Making a False Report or Statement to the U.S. Department of Housing and Urban
27 Development ("HUD"), in violation of 18 U.S.C. § 1012.

28 In the plea agreement, the government and the defendant agreed to an adjusted offense

1 level between 8 and 10, depending on the loss amount to be determined by this Court. If the loss
2 amount is at least \$120,001, then the adjusted offense level is 14. If the loss amount is between
3 \$70,001 and \$120,000, the adjusted offense level is 13. See Plea Agreement ¶ 7. The parties did
4 not agree to a Criminal History Category (“CHC”). The government agrees with the Probation
5 Officer’s calculation of a CHC of I. See Presentence Report (“PSR”) ¶ 30. With an offense
6 level of 8 and CHC I, the Guideline sentencing range is 0 to 6 months. With an offense level of
7 10, by contrast, the Guideline range is 6 to 12 months. In the plea agreement, the defendant
8 agreed that a Guideline sentence within the applicable Guideline range would be reasonable, and
9 that she would not seek a sentence below the applicable Guideline range. Plea Agreement ¶ 8.
10 She agreed to pay \$126,934 in restitution and a \$30,000 fine. Id. at ¶ 9.

11 It is the government’s position that the actual loss amount is accurately reflected by the
12 attached spreadsheets, which were obtained from the San Francisco Housing Authority. See
13 Exhibit A. The offense conduct was from December 1998 through December 2006. Plea
14 Agreement ¶ 2. The government calculates the total loss amount from December 1998 through
15 August 2006 – which almost covers the date range of the offense conduct – as being \$127,724.
16 See Exhibit A. However, the government agreed in the plea agreement not to seek to prove a
17 loss amount higher than \$126,934. Plea Agreement ¶ 7. Thus, the government believes that the
18 appropriate adjusted offense level is 10. The Probation Officer agrees with the government’s
19 assessment of the loss amount and adjusted offense level.

20 In the plea agreement, the government agreed to recommend a sentence of probation that
21 includes a condition or combination of conditions that substitute intermittent confinement,
22 community confinement, or home detention for imprisonment, pursuant to U.S.S.G.
23 § 5C1.1(c)(3). Plea Agreement ¶ 15. The Probation Officer agrees with that assessment, and has
24 recommended a sentence of three years probation, with six months home confinement without
25 electronic monitoring in lieu of custody. As the Probation Officer explained in his detailed
26 Presentence Report, such a sentence is adequate but not greater than necessary to accomplish the
27 objectives set forth in 18 U.S.C. § 3553(a). The sentence is a significant sentence for this
28 defendant, who has almost no criminal history. Although the offense is serious, especially due to

1 the length of time in which the defendant received payments, the defendant – in contrast to her
2 co-defendant and granddaughter Lauton Joshua – submitted only one fraudulent document
3 during the relevant time period. Other mitigating factors include the fact that the defendant has
4 maintained consistent gainful employment and improved herself educationally. The defendant is
5 also a frail woman, currently confined to a wheelchair, and is 79 years old. The offense was
6 non-violent, and the defendant is not perceived to be a threat to the community. In addition, the
7 defendant has agreed to pay a large amount of restitution and a substantial fine.

8 For those reasons, the government agrees with the Probation Officer that a sentence of
9 three years probation with six months of home confinement is appropriate in this case.

10
11 DATED: May 13, 2008

Respectfully submitted,

12 JOSEPH P. RUSSONIELLO
13 United States Attorney

14 _____/s/
15 ERIKA R. FRICK
16 Assistant United States Attorney